

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patricia de la Torre	Team: Team # 3	CCRB Case #: 200310267	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 12/27/2003 10:30 PM	Location of Incident: § 87(2)(b) and § 87(2)(b)	Precinct: 34	18 Mo. SOL 6/27/2005	EO SOL 6/27/2005	
Date/Time CV Reported Mon, 12/29/2003 12:59 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 12/29/2003 12:59 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jesse Taylor	23485	924658	034 PCT
2. POM Fabio Nunez	01432	925839	034 PCT
3. POM Harvin Hart	00829	924670	034 PCT
4. POM William Ramirez	21063	904849	034 PCT
5. POM Officers			
6. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Isaac NgMontalvo	30456	904606	034 PCT
2. POF Barbara Cook	20778	905517	034 PCT
3. LT Joseph Delgado	00000	897317	034 PCT
4. POM David Noyes	14488	906947	034 PCT
5. POM Johnny Diaz	31661	915603	034 PCT
6. POF Margarette Foster	07047	923839	034 PCT
7. POM Luis Vidal	15759	927639	034 PCT
8. POM Jamie Pierce	22733	916444	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Fabio Nunez	Abuse: Officer Fabio Nunez stopped the car in which § 87(2)(b) was an occupant.	
B.POM Harvin Hart	Abuse: Officer Harvin Hart stopped the car in which § 87(2)(b) was an occupant.	

Officer(s)	Allegation	Investigator Recommendation
C.POM Fabio Nunez	Force: Officer Fabio Nunez used physical force against § 87(2)(b)	
D.POM Harvin Hart	Force: Officer Harvin Hart used physical force against § 87(2)(b)	
E.POM Officers	Discourtesy: Officer spoke obscenely to § 87(2)(b)	
F.POM Jesse Taylor	Force: Officer Jesse Taylor used physical force against § 87(2)(b)	
G. An officer	Force: An officer used pepper spray against § 87(2)(b)	
H.POM William Ramirez	Force: Officer William Ramirez struck § 87(2)(b) with a baton.	
I. An officer	Force: An officer used pepper spray against § 87(2)(b)	

Synopsis

On December 27, 2003 at approximately 10:30pm, § 87(2)(b) was traveling on § 87(2)(b) and § 87(2)(b) in Manhattan. The back seat passenger of the vehicle was § 87(2)(b) but the front seat passenger is unidentified. Officer Fabio Nuñez and Officer Harvin Hart stopped § 87(2)(b) (Allegation A and B) because he was driving 20-25 miles per hour over the speed limit. Officer Nuñez approached the driver's side and Officer Hart approached the passenger side. While Officer Nuñez attempted to obtain § 87(2)(b)'s identification, Officer Hart observed § 87(2)(b) make several furtive movements. Officer Hart signaled to Officer Nuñez that something was not right. Officer Nuñez decided to take § 87(2)(b) out of the car to gain control of the car. When § 87(2)(b) stepped out of the vehicle, he swung at Officer Nuñez causing both to fall on the ground. Officer Hart assisted Officer Nuñez. Officer Nuñez, Officer Hart and § 87(2)(b) started struggling on the ground (Allegation C and D). § 87(2)(b) and the other passenger ran away.

Officer Nuñez and Officer Hart noticed a crowd forming to prevent § 87(2)(b)'s arrest and called for assistance. At the same time, § 87(2)(b) was made aware that § 87(2)(b) was about to be arrested and ran to the location. He saw § 87(2)(b) and the officers wrestling on the ground and approached them to find out what happened. Several units responded and unidentified officers approached § 87(2)(b) and allegedly told him to "get out of the fucking way" (Allegation E). § 87(2)(b) started walking toward the sidewalk when Officer Jessie Taylor allegedly grabbed § 87(2)(b) and threw him to the ground (Allegation F). When he was thrown to the ground, § 87(2)(b) sustained an injury to his left leg and a laceration on his nose. Officer Taylor, who was assisted by two additional unidentified officers, handcuffed § 87(2)(b). Once he was handcuffed, an unidentified female officer approached § 87(2)(b) and sprayed him with pepper spray (Allegation G). § 87(2)(b) was transported to the patrol car where he waited for approximately 5 minutes before he was taken to the 34th Precinct. During that time, § 87(2)(b) and § 87(2)(b) were arrested. § 87(2)(b) did not witness them get arrested but he alleged that § 87(2)(b) was struck by a baton (Allegation H) and spray with pepper spray (Allegation I) by unidentified officers.

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b), § 87(2)(b) at the time of the incident contacted the CCRB on December 29, 2003 via telephone and filed a complaint against several police officers (encl. 2a-2c). § 87(2)(b) was injured as a result of the incident; he received five stitches to his left leg and a laceration on his nose. He sought treatment at § 87(2)(b) a few hours after he was released from the precinct.

Medical Records

§ 87(2)(b) was seen § 87(2)(b) on § 87(2)(b) at § 87(2)(b) (encl. 2d-2n). His chief complaint was "I was at the 34th Precinct to see my brother at 10:00 – 10:30pm (12/27/03). At the pct, I was handcuffed, thrown on the floor, and my eyes got maced." During his assessment he complained burning and itching to "§ 87(2)(b)". § 87(2)(b) stated, "My nose doesn't look normal." An abrasion was noted in the nasal area, the base of his left 5th finger and above his left knee and red marks to both wrists. An X-ray of his nasal bone confirmed that there were no fractures. A laceration to his left thigh was sutured with 5 stitches and discharged instructions were issued to the patient. The suture removal was scheduled for § 87(2)(b). On § 87(2)(b) § 87(2)(b) returned to § 87(2)(b) to remove his suture.

CCRB Statement

§ 87(2)(b) was interviewed by the CCRB on January 30, 2004 (encl. 2o-2w).

On December 27th, 2003 § 87(2)(b) was on the corner of § 87(2)(b) and § 87(2)(b) meeting § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b)'s girlfriend § 87(2)(b) § 87(2)(b) informed § 87(2)(b) that his brother § 87(2)(b) was on the ground bleeding because the police were beating him up. § 87(2)(b) and the others ran down § 87(2)(b) to § 87(2)(b). There were approximately 20 people from § 87(2)(b)'s neighborhood witnessing the incident. § 87(2)(b) saw § 87(2)(b) on the ground near the yellow line of the street. There were three uniformed officers hitting § 87(2)(b) two of which were identified by the CCRB as Officer Fabio Nuñez and Officer Harvin Hart. § 87(2)(b) described the third officer as a male White, approximately 5'10" with a medium build. By "hitting", § 87(2)(b) meant that the officers were holding him on the ground by using their weight. At this point, § 87(2)(b) only saw one patrol car at the location.

§ 87(2)(b) § 87(2)(b) was on the ground on his stomach with his hands behind his back and his face bloody. § 87(2)(b) had already been handcuffed and was not moving around. The crowd was yelling "Stay quiet, don't move" to § 87(2)(b) and was also yelling "What you doing?" to the police officers. § 87(2)(b) was not saying anything. Officer Nuñez had his knees in § 87(2)(b)'s back. § 87(2)(b) asked the officers why they were doing this. He admitted that he was loud but did not curse. His friends were behind him and were also talking to the officers but § 87(2)(b) was the closest to the officers. After about 3 minutes, approximately twenty officers arrived.

The backup officers tried to disperse the crowd from the street by pushing them away. § 87(2)(b) heard two or three male officers' voices behind him saying "Get out of the fucking way." § 87(2)(b) not saying anything, moved between two parked cars, trying to get to the sidewalk. Officer Jesse Taylor (identified by § 87(2)(b)) followed him, pushing him from the street towards the sidewalk. When he got to the sidewalk Officer Taylor threw him to the ground. § 87(2)(b)'s knees hit the ground first and then officers pushed him down causing his face to hit the ground, which resulted in a cut on his nose.

Two other male officers, one of which was identified by the CCRB as Officer William Ramirez, got on top of § 87(2)(b) once he was on the ground and pulled his arms behind his back. § 87(2)(b) said "I'm giving up, I'm giving up." Once § 87(2)(b) was handcuffed an unidentified female officer said, "You think you're a tough guy?" and pepper-sprayed him. § 87(2)(b) screamed and said that it burned. His vision was blurry as a result of the pepper spray but he could see a little. § 87(2)(b) was picked up and escorted to a police car. While he sat in the car he heard a thud and saw his friend § 87(2)(b) thrown against the patrol car but he did not see which officer did this. § 87(2)(b) (§ 87(2)(b) referred to him as § 87(2)(b) § 87(2)(b) in the interview) was also arrested in the incident.

Officer Taylor transported § 87(2)(b) to the 34th Precinct. § 87(2)(b) was placed in a cell with his brother § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), and three or four other adults. § 87(2)(b) and § 87(2)(b) were issued summonses. § 87(2)(b) was taken into an office where Officer Nuñez wrote a report for him. Officer Nuñez showed § 87(2)(b) an extendable metal baton. Officer Nuñez said "He's lucky, I could have used this. If I would have hit him with this, it would have cracked his head open. He's lucky that I didn't kill him. You're lucky your brother didn't die. We could have killed him." Officer Nuñez also said that he had already killed 2 or 3 people as an officer. § 87(2)(b)'s mother picked him up at about midnight. § 87(2)(b) was not charged since he was a juvenile. After being released § 87(2)(b) went to § 87(2)(b) and received 5 stitches in his left thigh for an injury he sustained from being thrown to the ground (he had not noticed this injury until he got to the precinct). He was released from the hospital at § 87(2)(b).

Results of Investigation

§ 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) a friend of § 87(2)(b) was interviewed by the CCRB on January 20, 2004 (encl. 2x-2aa).

§ 87(2)(b) was in her apartment when a friend of hers by the name of § 87(2)(b) (unknown last name) came running to her apartment. § 87(2)(b) said, “They got § 87(2)(b) and said that § 87(2)(b) had been driving and had passed police officers, who stopped him and took out § 87(2)(b) and hit him. § 87(2)(b) had also been in the car but police officers let him out. § 87(2)(b) went to the location where § 87(2)(b) was being held and estimated that there were at least fifty or sixty police officers present. § 87(2)(b) said that the location is in a very bad neighborhood and when police officers arrive, more than one car always show up. She also stated that there were “thousands of people there.”

She saw § 87(2)(b) sitting in a police car bleeding from his mouth and the left side of his nose. § 87(2)(b) has braces and they apparently cut the inside of his mouth. § 87(2)(b) told a female police officer (identified by the CCRB as Officer Barbara Cook) that she was related to § 87(2)(b)'s mother. Officer Cook told § 87(2)(b) that she had to go to the 34th Precinct to find out what happened.

§ 87(2)(b) also saw § 87(2)(b) held over the trunk of a police car by 3 male police officers (one male Hispanic and one male White). The unidentified male Hispanic officer spoke with § 87(2)(b) in Spanish and told him to stop resisting. § 87(2)(b) was moving around and was saying “Yo, what’s going on, why are you getting me out of my car?” § 87(2)(b) did not see any injuries on § 87(2)(b) at the scene.

The officers present were trying to disperse the crowd of people, who were yelling things like “That’s abuse.” The officers were saying “Move back.” § 87(2)(b) stayed on the scene for about half an hour while the officers dispersed the crowd. She saw the officers leave with § 87(2)(b) and § 87(2)(b) (in separate cars).

§ 87(2)(b) did not see § 87(2)(b) for approximately a week after the incident but she saw § 87(2)(b) at the precinct. She and § 87(2)(b) took § 87(2)(b) home at approximately 1:00am at which time they noticed a large gash on his leg and decided to take him to the hospital.

Efforts to Locate Additional Witnesses

§ 87(2)(b) had an appointment with the CCRB on January 30, 2004 but his attorney advised him not to give a statement while his criminal charges were pending. The CCRB contacted § 87(2)(b) on July 22, 2004 however he stated that his criminal charges were still pending. The CCRB attempted to contact § 87(2)(b) via telephone and mail once his criminal charges were resolved, however as of this date he has not contacted the CCRB.

A canvass was conducted on April 12, 2004 (encl. 7k) in the vicinity of § 87(2)(b) and § 87(2)(b). Several businesses were canvassed in the area, including § 87(2)(b), bodegas, a hair salon, § 87(2)(b), and a restaurant. None of the employees that were approached in these establishments recalled the incident. On August 24, 2004 a second canvass was conducted (encl. 7l) to locate additional witnesses. The undersigned investigator visited § 87(2)(b) and knocked on § 87(2)(b) looking for § 87(2)(b) (the owner of § 87(2)(b)) but there was no answer. A note was left, in Spanish, requesting that § 87(2)(b) contact the undersigned investigator as soon as possible regarding the incident. Two letters (in Spanish) were also mailed to § 87(2)(b) but she has not responded to the CCRB.

Letters and phone calls were also made in an attempt to locate additional witnesses. A letter was mailed to § 87(2)(b) (one of the males arrested as a result of the incident) on March 30, 2004 but he never made any contact with the CCRB. The CCRB was able to contact § 87(2)(b) via telephone and schedule an appointment for July 19, 2004. On the day of the scheduled interview, § 87(2)(b) contacted the CCRB and cancelled his appointment because he was not feeling well. He stated that he would contact the CCRB at a later date to schedule the appointment. The CCRB called § 87(2)(b) on August 24, 2004 before going out to conduct a canvass. The undersigned investigator also called § 87(2)(b) several times that day, while out in the field, in order to obtain a statement but there was no answer. The undersigned investigator spoke with the superintendent's wife of § 87(2)(b) building but she did not know § 87(2)(b) apartment number.

The CCRB attempted to contact § 87(2)(b) (arrested as a result of the incident) via telephone and mail but was unsuccessful. On August 24, 2004, during the second canvass, the undersigned investigator

visited § 87(2)(b)'s residence but he was not home. A message was left with § 87(2)(b)'s father to have § 87(2)(b) contact the CCRB along with the undersigned investigator's business card. Despite these efforts, § 87(2)(b) has not contacted the CCRB as of the date of this report.

Two letters were also mailed to § 87(2)(b) and § 87(2)(b) who were both issued summonses as a result of the incident. The post office returned § 87(2)(b)'s letters because he neglected to leave a forwarding address and therefore the post office was not able to forward it to the correct address. MetroSearch and Coles Directory were accessed but the CCRB obtained negative results for § 87(2)(b).

§ 87(2)(b) did not provide any contact information for § 87(2)(b) or § 87(2)(b) who were witnesses to the incident. A search in the DMV database was conducted for § 87(2)(b) but there was no match.

Identification of Officers

§ 87(2)(g)

§ 87(2)(b). The CCRB identified Officer Fabio Nuñez and Officer Harvin Hart as the officers that stopped § 87(2)(b). Officer Nuñez was identified from the aided report that was filled out since he was injured as a result of this incident and Officer Hart was identified from the roll call as Officer Nuñez's partner. Officer Jessie Taylor was also positively identified as the officer that allegedly pushed § 87(2)(b) and transported him to the precinct. There is no dispute regarding the identification of Officer Taylor because § 87(2)(b) identified Officer Taylor by name and secondly, Officer Taylor acknowledged his role as one of the officers that handcuffed and transported § 87(2)(b) to the precinct. Officer Cook and LT Delgado were identified because they were listed on the aided reports that were prepared for this incident. Officer NgMontalvo, Officer Vidal and Officer Ramirez were identified from the arrest entries made in the command log and Officer Foster was identified from the roll call as Officer Vidal's partner. LT Delgado, Officer Cook, Officer Ramirez, Officer NgMontalvo, Officer Vidal, and Officer Foster acknowledged their roles during the incident.

§ 87(2)(b) claimed that there was another male officer around § 87(2)(b) when he first arrived at the scene. § 87(2)(b) described him as a male White, approximately 5'10" with a medium build. § 87(2)(b) also stated that there was only one patrol car at the scene when he saw these three officers surrounding § 87(2)(b). Officer Nuñez and Officer Hart § 87(2)(g) testified to being the only two officers in that marked patrol car. § 87(2)(g). While § 87(2)(b) was being handcuffed, he claimed that two officers pulled his hands back and another officer sprayed him with pepper spray. § 87(2)(b) was not able to provide a description of these officers, other than the officer that sprayed him with pepper spray was a female Black. The CCRB interviewed Officer Foster, the only female Black officer that was identified as having been on the scene, but she denied spraying pepper spray. The CCRB also questioned Officer Taylor, who handcuffed § 87(2)(b) but he was not able to identify the officer that sprayed the pepper spray either.

Officers' Statements

Overview of Officers' Statements

The CCRB identified 12 officers that were present at the scene from the roll call and the sprint. Officer Hart and Officer Nuñez stopped the vehicle that § 87(2)(b) was driving and subsequently arrested him. A crowd started to form which quickly turned into a riot. Officer Hart and Officer Nuñez called for assistance and numerous officers responded to the scene. Officer Taylor stopped and arrested § 87(2)(b). Officer Ramirez and Officer NgMontalvo arrested § 87(2)(b). Officer Cook assisted Officer Taylor arrest another male Hispanic, whom the CCRB identified as either § 87(2)(b) or § 87(2)(b). LT Delgado, Officer Vidal and Officer Foster were on the scene but they did not have any specific interactions with anyone. Officer Noyes, Officer Diaz and Officer Pierce were not on the scene.

Officer Harvin Hart and Officer Fabio Nuñez

On December 27th, 2003, Officer Hart and Officer Nuñez were working a tour of 3:00pm by 11:35pm and were assigned to Sector D in marked patrol car. Officer Hart made the following entries in his memo book (encl. 3w-3y): “2210 Car stop at § 87(2)(b). 2217 1 under in regarding.” Officer Nuñez made the following entries in his memo book (encl. 3k-3m): “2210 Car stop c/o § 87(2)(b). 2217 one under from § 87(2)(b) by the name of § 87(2)(b).” Officer Nuñez was interviewed on June 7, 2004 (encl. 3z-3bb) and Officer Hart was interviewed at the CCRB on October 27, 2004 (encl. 3n-3p).

§ 87(2)(g)

Officer Hart and Officer Nuñez were traveling on § 87(2)(b) when a vehicle overtook their patrol car by approximately 20-25 miles per hour. Officer Hart and Officer Nuñez stopped a vehicle containing two males § 87(2)(b) and an unidentified male, possibly § 87(2)(b) in the front seat and one female § 87(2)(b) in the back seat. Officer Nuñez approached § 87(2)(b)'s side and Officer Hart approached the passenger's side. Officer Hart stood a few feet behind § 87(2)(b) so that he could have a clear view of the person's hands. Officer Hart saw § 87(2)(b) put her hands in between her legs so he asked her to lower the window and she complied. The passenger in the front seat was compliant throughout the entire car stop and kept his hands on the dashboard. Officer Nuñez requested § 87(2)(b)'s license and registration while explaining to him what is going on. § 87(2)(b) put her hands in between her legs again. Officer Hart requested that she put her hands on seat for the second time and she again complied. Given § 87(2)(b)'s behavior, Officer Hart signaled to Officer Nuñez to take § 87(2)(b) out of the vehicle. Officer Nuñez asked § 87(2)(b) to step out of the vehicle at which time § 87(2)(b) questioned him. Officer Nuñez asked § 87(2)(b) to step out of the vehicle three times and then opened § 87(2)(b)'s side door so that § 87(2)(b) could step out of the car. When Officer Nuñez took his handcuffs out and to handcuff § 87(2)(b) for his safety, § 87(2)(b) swung at Officer Nuñez causing both Officer Nuñez and § 87(2)(b) to fall on the ground.

From where Officer Hart stood, it appeared to him that § 87(2)(b) made contact with Officer Nuñez' face. Officer Hart did not know whether to focus on the female in the back seat or to assist Officer Nuñez because he thought there was a gun in the vehicle. Officer Hart decided to go to Officer Nuñez and saw Officer Nuñez and § 87(2)(b) wrestling on the ground. As Officer Hart turned to Officer Nuñez, § 87(2)(b) started running away and Officer Hart did not see her again until later at the precinct. § 87(2)(b) kicked and punched Officer Nuñez striking him several times all over his body and attempted to grab Officer Nuñez' firearm. Officer Hart got on the ground with the officer and § 87(2)(b) and all three men started wrestling. The officers tried to place § 87(2)(b) in handcuffs, by grabbing his hands and pulling them behind his back.

A crowd of approximately 100 people started to form because § 87(2)(b) was screaming. The crowd was very agitated. Officer Hart did not know if the crowd became hostile because of the history that the officers have with that specific block. (That block is a drug prone location that is hit hard by the officers of the 34th Precinct.) The crowd started calling the officers “asshole” and “motherfucker” and quickly grew to throwing bottles at the officers. Members of the crowd also physically grabbed Officer Hart and Officer Nuñez. Officer Hart was more concerned that § 87(2)(b) was going to take Officer Nuñez' gun because § 87(2)(b) was on top of Officer Nuñez when Officer Hart first approached them. Officer Hart able to call for additional units (10-85), which eventually turned into a call for assistance (10-13). Officer Hart punched § 87(2)(b) several times (Officer Hart does not recall where) in order to get § 87(2)(b) off of Officer Nuñez. It took Officer Hart and Officer Nuñez approximately 10 minutes to handcuff § 87(2)(b) although it seemed like forever.

The officers tried to move members of the crowd away from Officer Nuñez and Officer Hart, but Officer Nuñez did not know if they were able to accomplish this through verbal commands or if they had to use physical force. Officer Nuñez did not see officers get in any physical struggles with other people. Officer Nuñez did not see any officers using pepper spray or batons. Officer Nuñez did not hear officers say, “Get out of the fucking way,” and due to the noise he could not hear if any officers were cursing.

Officer Nuñez and Officer Hart managed to put § 87(2)(b) in handcuffs by pulling his hands behind his back. § 87(2)(b) stopped resisting once he was placed in handcuffs. Officer Nuñez put § 87(2)(b) in his patrol car and took him to the precinct with Officer Hart. Officer Hart spoke with § 87(2)(b) at the precinct and learned that she was only § 87(2)(b). She informed him that she was hiding a bottle of alcohol and she was worried that Officer Hart would give § 87(2)(b) or § 87(2)(b) a summons. § 87(2)(b) was issued a summons § 87(2)(a) FCT § 380.1 § 87(2)(b). Officer Nuñez did not recall if § 87(2)(b) was injured and did not remember ever observing injuries on him.

Officer Jesse Taylor and Officer William Ramirez

On December 27th, 2003, Officer Taylor and Officer Ramirez worked a tour of 3:00pm by 11:35pm and were assigned to sector A. Officer Taylor's memo book contained no relevant entries (encl. 3f). Officer Ramirez made the following entries in his memo book (encl. 3vv-3xx): "2230 (85) § 87(2)(b) § 87(2)(b)." Officer Taylor was interviewed by the CCRB on June 1, 2004 (encl. 3g-3j) and Officer Ramirez interviewed on November 26, 2004 (encl. 3yy-3aaa).

When Officer Ramirez and Officer Taylor arrived at the location, there were 100-200 people and approximately 10 units. Officer Taylor saw a male (identified by the CCRB as § 87(2)(b)) try to get in between Officer Hart, Officer Nuñez and § 87(2)(b). § 87(2)(b) immediately began running, heading towards Officer Taylor and Officer Ramirez. § 87(2)(b) ran at first on the street and then moved over onto the sidewalk as he ran. Officer Ramirez attempted to grab § 87(2)(b) and missed due to § 87(2)(b) swerving to evade him, causing Officer Ramirez to fall down. Officer Taylor, also on the street, came in between two parked cars to the curb, reached out over the scaffold and grabbed the back collar of § 87(2)(b)'s shirt with his left hand. Officer Taylor immediately put § 87(2)(b) on the ground face down and put him in handcuffs. Although Officer Taylor stated that no one assisted him, Officer Ramirez believed that he and Officer Cook assisted Officer Taylor them in handcuffing § 87(2)(b). He was attempting to kick the officers but he never made contact. Officer Taylor took him away once he was handcuffed but Officer Ramirez was not sure where he was taken. § 87(2)(b) did not appear to be injured to Officer Ramirez and Officer Taylor's knowledge. At some point between handcuffing him and bringing him to the car, Officer Taylor and § 87(2)(b) were near pepper spray being discharged. Neither of them were hit by a stream of pepper spray, but they caught some mist or scatter of pepper spray.

After putting § 87(2)(b) in his car, Officer Taylor met up with Officer Cook. A large crowd approached his patrol car. Officer Taylor and Officer Cook stood by the side of the patrol car and told people in the crowd that they had to back off and clear the street and the area. The two of them did not say anything besides this. Everyone complied, with one exception. A male (C #4, the CCRB identified him as either § 87(2)(b) or § 87(2)(b)) when told that he had to get out of the street, looked at Officer Taylor and said, "I'm not moving." Officer Taylor made the decision to place C #4 under arrest for disorderly conduct for refusing to clear the street, therefore blocking vehicular and pedestrian traffic and was being part of the large crowd, which caused public annoyance and alarm.

Officer Taylor and Officer Cook together attempted to arrest C #4. Officer Taylor said, "Turn around," and grabbed one of C #4's arms and Officer Cook grabbed the other. C #4 did not resist Officer Taylor very much, but yanked his arm away from Officer Cook, pulling her forward. Officer Taylor grabbed C #4's other arm and handcuffed him standing up. C #4 may have resisted a little beyond yanking his arm away from Officer Cook, but Officer Taylor was stronger than him and was able to handcuff him without incident. Officer Taylor placed him in the back seat of his car with § 87(2)(b). During the incident, Officer Taylor did not hear officers telling civilians, "Get out of the fucking way," and denied making that statement.

Officer Ramirez stood at the corner and saw more people running at him. Officer Ramirez took out his baton and held it in a horizontal position as he pushed people away. Officer Ramirez saw another male (identified by the CCRB as § 87(2)(b)) try to get past him. Officer Ramirez told § 87(2)(b) to leave but § 87(2)(b) did not comply and attempted to run around Officer Ramirez. Officer Ramirez held his baton in a horizontal position and pushed § 87(2)(b) back. § 87(2)(b) stumbled back a few steps but did not fall on the ground. § 87(2)(b) became upset and said, "Yo man!" while stepping forward in a boxing stance. § 87(2)(b)

§ 87(2) swung at Officer Ramirez but he did not make contact. Officer Ramirez stepped back and struck him in the left arm one time with his baton. Officer Ramirez did not recall hitting § 87(2)(b) in the leg, he only recalled hitting him in the arm. Officer NgMontalvo came from behind and grabbed § 87(2)(b) at which point they took § 87(2)(b) to the ground. They were trying to handcuff him but were unable to because he was trying to kick and bite the officers. Officer NgMontalvo had one of § 87(2)(b) hands handcuffed but they were unable to get the other hand. Since Officer Ramirez was the heavier of the two, he held § 87(2)(b) down while Officer NgMontalvo tried to handcuff the other hand. Another unidentified officer came and sprayed pepper spray. Officer Ramirez never learned the identity of the officer that sprayed the pepper spray, although he tried to find out later that evening, but he recalled moving back to avoid getting hit with the pepper spray. Officer Ramirez did not know if the pepper spray affected § 87(2)(b) but he recalled that he did not feel the effects. It took approximately 2-3 minutes to handcuff § 87(2)(b). During the struggle, § 87(2)(b) made contact with Officer Ramirez but Officer Ramirez was not injured as a result. Officer Ramirez did not recall whether § 87(2)(b) was injured. Officer NgMontalvo took § 87(2)(b) to the 34th Precinct. After § 87(2)(b) was arrested, Officer Ramirez continued to push people away trying to disperse the crowd.

Officer Ramirez eventually met up with Officer Taylor and transported § 87(2)(b) and C #4 back to the station house. At the station house, Officer Taylor took both § 87(2)(b) and C #4 in. Officer Taylor saw that § 87(2)(b)'s nose began to run and his eyes seemed watery. Officer Taylor asked § 87(2)(b) if he was all right and he said he was. Officer Taylor took § 87(2)(b) into the bathroom and let him wash his face and blot it with paper towels. Officer Taylor took § 87(2)(b)'s pedigree information and found that he was a juvenile (he believed he was § 87(2)(b)). Someone else wrote a summons to C #4 § 87(2)(a) FCT § 87(2)(b), and he was put in the cell. Officer Taylor waited in the juvenile room with § 87(2)(b) for § 87(2)(b)'s mother. Officer Taylor went home at the end of his tour however Officer Ramirez stayed and waited for a parent to arrive.

Officer Barbara Cook

Ambulance Call Reports

A copy of the FDNY Ambulance Call Report was obtained (encl. 5a-5b). Officer Cook was treated for an injury to her shoulder at the 34th Precinct at 10:23pm. The EMTs placed Officer Cook's shoulder in a sling and determined that her presumptive diagnosis was a sprained shoulder. She informed them that she injured her shoulder when she was wrestling with a criminal.

CCRB Statement

On December 27th, 2003, Officer Cook was working a tour of 3:00pm by 11:35pm and was assigned to Special Post 1, a foot post next to Yeshiva University in uniform. Her memo book states (encl. 3a-3b): "2200 R § 87(2)(b) 10-13. 2220 Enroute § 87(2)(b) E/R injury to left arm." It also indicates that she went line-of-duty from § 87(2)(b) to § 87(2)(b). Officer Cook was interviewed by the CCRB on May 19, 2004 (encl. 3c-3e).

At approximately 10:00pm, when her meal had ended, she asked her supervisor Lt. Delgado if she could get a ride back to her post. As they were leaving, a 10-13 was called for § 87(2)(b) and § 87(2)(b). There were no details with the call, only a crowd yelling in the background as the officers called for help. When they arrived, the location was full of at least 50 people running everywhere, teenagers running across the tops of cars, and people throwing bottles. Lt. Delgado instructed Officer Cook to help disperse the crowd while he determined who called for assistance.

Officer Cook looked to her left and saw Officer Jesse Taylor at the intersection of § 87(2)(b) and § 87(2)(b). Officer Taylor was addressing a group of at least 4 males. While Officer Cook walked towards him Officer Taylor was apparently telling the males to go southbound. All of them began to walk away except for one male Hispanic (C#1) § 87(2)(g) who waved his arms in an annoyed fashion. Officer Cook's impression was that C#1's behavior expressed the sentiment of "Fuck you, I'm not leaving" but she did not hear what C#1 was saying.

Officer Taylor moved to arrest C#1 and Officer Cook assisted. Officer Taylor grabbed C#1's left arm and Officer Cook grabbed the right arm. The officers informed C#1 that he was under arrest when C#1 said, "Fuck you, I'm not going," and tried to pull his arm away, leading to a "tug of war" with his arm. Officer Cook and Officer Taylor were able to force C#1's arms behind his back and the officers managed to handcuff him. C#1 was not placed on the ground in the process of being handcuffed.

After handcuffing C#1, Officer Cook immediately started to feel throbbing in her left arm and pins and needles in her left arm from her elbow to her fingers. Officer Taylor said that he would put C#1 in his car and told Officer Cook to stay in place and see what was wrong with her arm. Officer Cook's arm became much worse so she went to Officer Taylor's patrol car, hoping to find a supervisor to report her injury. Since there was no supervisor she stayed in place, as her arm pain would make her useless in crowd control. As she waited near Officer Taylor's patrol car she did not see that C#1 was injured.

When the situation calmed down, Officer Cook told Lt. Delgado about her injury and he told her to come with him to the precinct. Officer Cook went to the precinct and waited for another officer to escort her to the hospital. An ambulance came and transported Officer Cook to § 87(2)(b) at approximately § 87(2)(b). § 87(2)(b). Officer Cook believed that she injured her arm by pulling on C#1's arm while attempting to cuff him.

Officer Isaac NgMontalvo

Officer Isaac NgMontalvo worked a tour of 3:00pm by 11:35pm with Officer Jamie Pierce. Officer NgMontalvo did not have his memo book on the date of the interview. He was interviewed by the CCRB on October 27, 2004 (encl. 3cc-3dd).

Officer NgMontalvo responded to a call for assistance by another sector that was trying to effect an arrest. The crowd was hostile, specifically punching, pushing and spitting at the officers. Officer NgMontalvo saw several police officers, one of which was Officer Barbara Cook, move forward in front of the large crowd. The crowd pushed Officer Cook who tripped over a scaffold and fell head over heels into the gutter. Officer NgMontalvo started walking toward that area when he observed Officer Ramirez push the crowd back with his baton, which was held in a horizontal position. Officer NgMontalvo saw a male who he later arrested (identified as § 87(2)(b)) punch Officer Ramirez in the shoulder. Officer Ramirez pushed § 87(2)(b) back when § 87(2)(b) punched Officer Ramirez in the back of the head. At one point, Officer Ramirez hit § 87(2)(b) with his baton one time in the calf area in response to being punched in the head.

Officer NgMontalvo approached § 87(2)(b) with the intention of handcuffing him when § 87(2)(b) started to squirm and also attempted to hit Officer NgMontalvo with his elbows. Officer NgMontalvo attempted to control § 87(2)(b) but they both fell sideways onto the ground. Officer NgMontalvo did not recall which officer assisted in handcuffing § 87(2)(b). An unidentified officer sprayed § 87(2)(b) around the head area with pepper spray but Officer NgMontalvo was not able to identify the officer because he was taking his handcuffs out to handcuff § 87(2)(b). Officer NgMontalvo does not recall if the pepper spray affected anyone else but he stated that the pepper spray was directed at § 87(2)(b) not the crowd. § 87(2)(b) swung his arms so much that he hit one of the officers with the other end of the handcuffs. § 87(2)(b) was finally handcuffed and was escorted to Officer NgMontalvo's unmarked RMP. Officer NgMontalvo transported § 87(2)(b) back to the precinct where he was presented to the desk officer. § 87(2)(b) was charged with § 87(2)(b). An ambulance was called to the precinct but § 87(2)(b) refused medical attention.

Lieutenant Joseph Delgado

On December 27, 2003 Lieutenant Joseph Delgado worked a tour of 2:45pm by 11:20pm. He was assigned as the Platoon Commander for the officers working the 4 to 12 tour. LT Delgado had the following entries in his memo book regarding the incident (encl. 3q-3s): "2212 10-91, 10-13 C/O W § 87(2)(b) and § 87(2)(b) with /34D. 2232 10-92 C x2 by 34D and 34A, 0-92C by 34A/C and 34B c/o § 87(2)(b)

§ 87(2)(b) EMS not. in reg. to inj. pris. and inj. MOS, all MOS acc for, 10-62A S/H in regards.” LT Delgado was interviewed by the CCRB on October 4, 2004 (encl. 3t-3v).

The scene was rather chaotic, with an estimated crowd of over 100 people when LT Delgado arrived. Most of the officers from his platoon were at the scene. LT Delgado and Officer Cook traveled to the scene in his vehicle. LT Delgado and the officers under his command tried to maintain order. There were so many people that had spilled out to the sidewalks and the streets causing safety hazards to the public, especially since the traffic was still moving.

LT Delgado did not recall the specific role of each of his officers. Officer Taylor and Officer Cook were doing crowd control along with LT Delgado. Objects were being thrown in the air but LT Delgado did not recall what was being thrown, he did however recall hearing bottles crash. His main concern was not only to protect himself but also to maintain order. LT Delgado did not see any officer use their baton in an aggressive manner but he did see “one of the MSU guys” use the batons during the crowd control, pushing the people back. LT Delgado did not see an officer strike any of the civilians on the scene with the baton.

Officer Luis Vidal

On December 27, 2003, Officer Vidal worked a tour of 4:00pm to midnight with his partner was Officer Margarette Foster. Officer Vidal was dressed in uniform and assigned to a marked vehicle. Officer Vidal did not have any entries in his memo book regarding the incident (encl. 3rr-3ss). He was interviewed at the CCRB on November 26, 2004 (encl. 3tt-3uu).

There was a crowd of approximately 200 people were yelling and throwing things. When Officer Vidal arrived at the scene he believed that the crowd was trying to prevent the arrest of § 87(2)(b). Officer Vidal tried to disperse the crowd by walking into the middle of the crowd and verbally move the people to the side. Officer Vidal knew that he did not use his baton to move the crowd, particularly because he does not carry his baton. Officer Vidal did not disperse pepper spray into the crowd nor did he see an officer use their baton or pepper spray.

Officer Margarette Foster

Officer Margarette Foster was assigned to work a tour of 4 by 12. She did not have her memo book on the day of the interview because she had been transferred to the Police Academy since the incident. After checking with the Roll Call for that day, she confirmed that her partner was Officer Vidal and was assigned to sector B. She was interviewed by the CCRB on November 12, 2004 (encl. 3ee-3ff).

Officer Foster did not recall much of the incident however she did recall that Officer Nuñez called an “85”. When she arrived at the location one male had been arrested. There were approximately 80 civilians at the scene but the people were under control from the time that she arrived at the scene.

Officer David Noyes, Officer Johnny Diaz, Officer Jaime Pierce

Officer David Noyes was scheduled to work a tour of 3:00pm by 11:35pm on December 27, 2003 with Officer Johnny Diaz. They were assigned to patrol sector C in a marked patrol car. They were interviewed by the CCRB on November 24, 2004 (encl. 3ii-3jj & 3mm-3nn). Neither Officer Noyes nor Officer Diaz had any entries in their memo book regarding the incident nor do they have any independent recollections of the incident.

Officer Jaime Pierce was also scheduled to work on December 27, 2003 but he took “lost time” that evening and went home at 8:25pm (encl. 3oo).

Medical Records

Officer Cook’s Medical Records

Officer Cook was seen at § 87(2)(b) on § 87(2)(b) at § 87(2)(b) (encl. 4a-4e). Her chief complaint at that time was “I hurt my left shoulder”. Officer Cook’s shoulder was placed in a

sling and she was given Motrin for the pain. She was instructed to return to the hospital if her symptoms worsened.

Aided Reports

A copy of an aided report for Officer Fabio Nuñez and Officer Barbara Cook were obtained (encl. 5c-5l).

§ 87(2)(b)

NYPD Documents

Roll Call

A copy of the 34th Precinct roll call for the 3rd tour was obtained (encl. 5m-5r). LT Delgado was assigned as the platoon commander, in vehicle 1980, from 2:24pm to 11:20pm. Officer Ramirez and Officer Taylor were assigned to sector A, Officer Hart and Officer Nunez were assigned to sector D, Officer Foster and Officer Vidal were assigned to sector B. These officers were scheduled to work a tour of 3:00pm to 11:35pm. Officer Noyes and Officer Diaz were assigned to sector C and were scheduled to take meal at 9:00pm. Officer NgMontalvo and Officer Pierce were assigned to the Anti-Crime Unit and Officer Cook was assigned to a special post 1 + 2 on West 184th Street.

Police Communications

A copy of the Sprint report as well as a copy of the CD containing the police communications for that evening was obtained (encl. 5u-5aa). At 10:12pm, sector 34D calls an 85 loudly and in an urgent voice. There is loud noise in the background. The officer gives the location as § 87(2)(b) and § 87(2)(b). A unit says "where are they?" The dispatcher repeats the location. Another unit (apparently) says that it is at the location and wants to know where the officers are. A unit says something apparently from the middle of a loud struggle- it is difficult to tell what the message is. Another unit corrects the incident location to § 87(2)(b) and § 87(2)(b). Many units transmit unintelligibly. 34D says that it needs more units there. The duty captain calls for a level one mobilization at the location at 10:14pm. The 34th Precinct XO calls for a level one mobilization at § 87(2)(b) and § 87(2)(b). The duty captain says that the supervisor on the scene should cancel the level one mobilization. The dispatcher calls 34ST1, who cancels the level one mobilization. The duty captain is called again (and states that it is at the location) and confirms the cancellation. 34LT1 says that the incident started with a car stop by 34D, and that they had 1 under; they are bringing the arrest and the vehicle into the station house. He also says that apparently two perpetrators fled from the vehicle, and there was no description. The arrest time given by the dispatcher as 10:17pm. A voice in the background is heard saying, "All that shit for a car stop?" 34LT1 says there is no description on the perpetrators, and that he would advise by telephone. 34 Anti-Crime says they have one under, and that the under time is 10:19pm. 34LT1 asked the dispatcher to perform a rundown of the sectors. 34A has 1 under, 34B also has 1 under, 34C is on meal, 34D has an arrest, 34HOW is accounted for. EMS arrived at the precinct 10:34pm at which time 2 people refused medical attention and one person "refused all."

Command Log

A copy of the 34th Precinct's command log for December 27, 2003 was obtained (encl. 5s-5t). There were two arrest entries at 10:40pm, one for § 87(2)(b) and the other for § 87(2)(b). § 87(2)(b)'s arresting officer is listed as Officer Vidal. He was arrested at 10:15pm in the vicinity of § 87(2)(b) and § 87(2)(b) and charged § 87(2)(a) 160.50. He was issued a summons (§ 87(2)(b)) and was released at 10:44pm. § 87(2)(b)'s arresting officer is listed as Officer Ramirez. He was arrested at 10:30pm at § 87(2)(b) and also charged § 87(2)(a) 160.50. He was released at 3:20am with summons #§ 87(2)(b). The next arrest entry was made at 12:50am for § 87(2)(b). § 87(2)(b)'s arrest time was 10:18pm and was arrested in the vicinity of § 87(2)(b) and § 87(2)(b). § 87(2)(b) was charged with assault 2 and was transported to the 28th Precinct.

There were two late entries were made of two additional arrests at § 87(2)(b) and § 87(2)(b). The entries were for § 87(2)(b) and § 87(2)(b) and Officer Nunez was listed as their arresting officer. § 87(2)(b)

§ 87(2)(b) was charged § 87(2)(a) 160.50 and § 87(2)(b) was charged § 87(2)(a) 160.50. There was no notation of an injury for § 87(2)(b). A juvenile report was prepared for § 87(2)(b) and he was released to § 87(2)(b) § 87(2)(b) at § 87(2)(b).

Complaint and Arrest Reports (encl. 5bb-5jj)

A copy of the complaint reports in connection with § 87(2)(b) and § 87(2)(b) arrests were obtained. The CCRB was unable to obtain § 87(2)(b)'s arrest report because he is a juvenile. § 87(2)(a) 160.50

§ 87(2)(b)'s arrest was listed on the complaint report. § 87(2)(b) was charged § 87(2)(a) 160.50. Officer Nuñez was listed as his arresting officer and it was noted that force was used to overcome assault. § 87(2)(b)'s arrest photo does not depict any injuries on his face.

§ 87(2)(b)'s arrest report have two arrest times on December 27, 2003; the first at 9:15pm and the second at 9:18pm; and two arrest numbers, § 87(2)(b) and § 87(2)(b) respectively. In the narrative it states, "At t/p/o deft. was observed by a/o punching police officers with a closed fist." Officer NgMontalvo was listed as the arresting officer. In § 87(2)(b)'s arrest photo he does not appear to have any injuries.

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian's CCRB History

This is the first complaint § 87(2)(b) filed with the CCRB (encl. 1e).

Officer's CCRB History

Officer Nuñez, Officer Hart, Officer Ramirez nor Officer Taylor have any substantiated allegations in their CCRB history (encl. 1a-1d).

Conclusions and Recommendations

Undisputed Facts

It is undisputed that Officer Nuñez and Officer Hart stopped the vehicle in which § 87(2)(b) was an occupant. It is also not disputed that § 87(2)(b) tried to intervene and was subsequently arrested. It is also a fact that a riot ensued, during which officers used pepper spray and their batons to affect additional arrests. It is also undisputed that several civilians and officers sustained injuries as a result of this incident.

§ 87(2)(b)'s Credibility

§ 87(2)(b), § 87(2)(g) First, when he filed his complaint with the CCRB and then when he was interviewed by the CCRB, he provided two different scenarios. In his original statement, § 87(2)(b) said that Officer Taylor "came out of nowhere" and pushed him to the ground. In his interview, after asking more details questions about how he came into contact with Officer Taylor, § 87(2)(b) elaborated that he and his friends had approached the officers that were arresting his brother to find out what happened. § 87(2)(b), § 87(2)(g) § 87(2)(b) admits that the officers told him to get away from his brother and that Officer Taylor instructed him to get on the sidewalk. § 87(2)(g)

Officers' Credibility

§ 87(2)(g) They acknowledged their use of force and articulated why they used the force they did. Officer Nuñez and Officer Hart articulated their reason for stopping § 87(2)(b) and requesting him to get out of the car. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegations Not Pled

§ 87(2)(b), § 87(2)(g)

Allegation A: Officer Fabio Nuñez stopped the car in which § 87(2)(b) was an occupant.

Allegation B: Officer Harvin Hart stopped the car in which § 87(2)(b) was an occupant.

Officer Nuñez and Officer Hart stopped the vehicle in which § 87(2)(b), § 87(2)(b) and an unidentified male were occupants. Neither § 87(2)(b) nor § 87(2)(b) cooperated with the CCRB's attempts to obtain a statement. Officer Nuñez and Officer Hart testified that they were traveling down § 87(2)(b) when the vehicle passed them in an excess of 20-25 miles per hour. § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation C: Officer Fabio Nuñez used physical force against § 87(2)(b)

Allegation D: Officer Harvin Hart used physical force against § 87(2)(b)

§ 87(2)(b) learned that § 87(2)(b) was about to be arrested and immediately ran to the location. When he arrived he saw § 87(2)(b) on the ground while officers were allegedly hitting him. When § 87(2)(b) stated that the officers were "hitting" § 87(2)(b) he meant that the officers were pushing him to the ground by using their weight. § 87(2)(b) could not identify the officers however the CCRB identified them as Officer Nuñez and Officer Hart. § 87(2)(b) alleged there was a third officer, but Officer Nuñez and Officer Hart admitted that they were the only two officers present until back up arrived. Officer Nuñez and Officer Hart acknowledged that they were struggling with § 87(2)(b) to overcome an assault. When Officer Nuñez attempted to place § 87(2)(b) in handcuffs as he stepped out of the vehicle, § 87(2)(b) swung at Officer Nuñez. Officer Hart ran around the vehicle to assist Officer Nuñez. Both Officer Hart and Officer Nuñez feared that § 87(2)(b) was going to take Officer Nuñez' gun.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) The CCRB attempted to obtain § 87(2)(b)'s statement after his criminal case was resolved but its attempts were unsuccessful. § 87(2)(b), § 87(2)(g)

Allegation E: Officers spoke obscenely to § 87(2)(b)

§ 87(2)(b) approached the officers to find out why they were doing this when he heard the voices of two or three male officers say "Get the fuck out of the way." § 87(2)(b) was not able to provide a description of these officers. The CCRB interviewed the officers that responded to the scene but most of the officers that were interviewed do not even recall § 87(2)(b). The officers that recall § 87(2)(b) on the scene were the officers that arrested him. Additionally, none of the officers recall hearing another officer say, "Get the fuck out of the way." § 87(2)(b), § 87(2)(g)

Allegation F: Officer Jesse Taylor used physical force against § 87(2)(b)

As § 87(2)(b) complied with the instructions of the unidentified officers, he walked between two marked cars. Officer Taylor followed § 87(2)(b) pushing him from the street to the sidewalk. When § 87(2)(b) got to the sidewalk, Officer Taylor allegedly threw § 87(2)(b) to the ground and as a result, § 87(2)(b)

§ 87(2)(b)'s knees hit the ground first. Officers then pushed § 87(2)(b) down, causing him to the ground and cut his nose. § 87(2)(b) was near a tree on the sidewalk and he fell on the brick border between the paved sidewalk and the square of soil around the tree. Two other officers got on top of § 87(2)(b) and pulled his arms back. Officer Taylor denied that the incident occurred as described by § 87(2)(b). According to Officer Taylor, he saw § 87(2)(b) try to get between Officer Hart and § 87(2)(b). Numerous officers converged on the scene and approached Officer Hart and § 87(2)(b). § 87(2)(b) immediately began running, heading toward Officer Taylor and Officer Ramirez. Officer Ramirez attempted to grab § 87(2)(b) but § 87(2)(b) evaded him and Officer Ramirez fell as a result. Officer Taylor grabbed the back collar of § 87(2)(b)'s shirt, through the construction scaffold on the sidewalk. Officer Taylor acknowledged that he put § 87(2)(b) on the ground at that point in order to handcuff him. Officer Taylor testified that none of the officers assisted him in handcuffing § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(g).

Officer Ramirez recalled that § 87(2)(b) attempted to run past himself and Officer Taylor when they grabbed him. Officer Taylor pulled § 87(2)(b) to the ground and Officer Ramirez assisted in handcuffing him.

There are several facts that need to be addressed. § 87(2)(g)

Secondly, § 87(2)(b) admitted that he was trying to find out why the officers were arresting § 87(2)(b). Although he denied trying to prevent them from arresting him, he was one of the many people surrounding Officer Nuñez and Officer Hart, causing them to call for assistance. § 87(2)(b) then admitted that he started walking in between two parked cars, which was confirmed by Officer Taylor and Officer Ramirez. § 87(2)(b), § 87(2)(g)

After Officer Taylor witnessed § 87(2)(b)'s behavior up to this point, he decided to arrest § 87(2)(b), § 87(2)(a), 160.50. § 87(2)(b) testified that Officer Taylor pushed him down, which Officer Taylor admitted when he stated that he grabbed § 87(2)(b)'s shirt and that he immediately put him to the ground at that time. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) broke his fall with his knees, which would explain the injury § 87(2)(b) received to his left knee. § 87(2)(b), § 87(2)(g)

Officer Taylor immediately handcuffed § 87(2)(b) and escorted him to the car. § 87(2)(b), § 87(2)(g)

Allegation G: An officer used pepper spray against § 87(2)(b)

After § 87(2)(b) had been handcuffed, § 87(2)(b) alleged that an unidentified female approached her and sprayed him with pepper spray. Again, § 87(2)(b) was not able to provide a description of this female officer. The CCRB interviewed the two female officers that responded to the scene. Officer Cook and Officer Foster denied using their pepper spray. According to Officer Foster, the crowd was calm by the time she arrived. Officer Taylor, who escorted § 87(2)(b) to the vehicle, testified that he smelled as they walked to the patrol car. Officer Taylor, however, could not identify the officer that sprayed the pepper spray. § 87(2)(b), § 87(2)(g)

Allegation H: Officer William Ramirez struck § 87(2)(b) was a baton.

Allegation I: An officer used pepper spray against § 87(2)(b)

§ 87(2)(b) claimed that an officer struck § 87(2)(b) with a baton and another unidentified officer sprayed § 87(2)(b) with pepper spray, although he did not personally witness this. The CCRB attempted to contact § 87(2)(b) several times but § 87(2)(b) was uncooperative. An appointment was scheduled with § 87(2)(b) in July but on the date of the appointment § 87(2)(b) contacted the CCRB to cancel because he was feeling ill. § 87(2)(b) did not want to reschedule at that time but stated that he would contact the CCRB at a later time to reschedule. The CCRB called him numerous times and went to his residence to obtain a statement but was unable to contact § 87(2)(b) § 87(2)(b), § 87(2)(g)

Officer NgMontalvo confirmed that it was Officer Ramirez who struck § 87(2)(b) § 87(2)(g). § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: